

## CHAPTER CCCCLXIV.

An Act for the relief of Margaret Wade.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, It is represented to the General Assembly of the State of Indiana, by the petition of Margaret Wade, of La Grange county, that in the year A. D. 1843, she was seized in fee simple of one hundred and sixty acres of land, situate in said county. That subsequently she became a member of a corporation known as the La Grange Phalanx; and she further represents, that she was fraudulently induced by Benjamin Jones, one of the corporators, to convey and transfer the land aforesaid to said corporation; and that the object of said corporation had wholly failed, and the said Margaret Wade having further represented that she is in very indigent circumstances, and unable to employ council to prosecute suit for the recovery of said property thus fraudulently obtained from her, and conveyed to said La Grange Phalanx; for remedy whereof:

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the said Margaret Wade may file her bill in chancery, in the La Grange county circuit court against the La Grange Phalanx, and the said Benjamin Jones as defendant, for a recovery of said land so conveyed by her to the said corporation, and the said corporation, by its president and *directors* shall answer the matters charged, in the bill alleged, under the oath of said president and directors, who were acting at the time of the conveyance of said land; and if it shall appear from the answer of said persons, or from any proof that said conveyance so made by said Margaret Wade, to said La Grange Phalanx, was fraudulently obtained from her; or that the objects of said corporation have failed; then said court shall decree the conveyance so made by the said Margaret Wade, to be void, and legal title thereto shall be vested in said Margaret Wade as effectually as if she had never made such a conveyance.

SEC. 2. Said decree shall not affect the vested rights of the corporation, or the rights of creditors who had no notice of the equity of said Margaret Wade.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCCLXV.

An Act to authorize the sale of school section belonging to Congressional township twenty one, range five west, in Tippecanoe county.

(APPROVED FEBRUARY 15, 1848.)

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the voters of congressional township number twenty one, north of range five west, in Tippecanoe county, are hereby authorized to petition the trustees of said township, for the sale of the whole or any portion of the school land in said township.

SEC. 2. Whenever such petition, signed by at least a majority of all the voters of said township, shall be presented to said trustees, the same shall be entered upon their record book, and if said trustees shall be satisfied that a majority of all the voters of said township have signed such petition, they shall enter their opinion on their record book, and thereupon such land shall be sold, which sale shall in all respects be governed by the laws now in force governing the sale of school lands, as fully and to the same extent as though the voters of said township had at any regular annual election voted in favor of such sale, and each sale and all the proceedings connected therewith shall be as valid, to all intents, as though such sale had been ordered by the voters of said township, at any regular election as aforesaid.

SEC. 3. This act shall be in force from and after its passage, and all laws conflicting with its provisions as far as relates to the school lands of said township are hereby repealed.

## CHAPTER CCCCLXVI.

An Act for the relief of John S. Watts.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That John S. Watts be allowed the sum of fifty dollars for that amount paid by him as a reward for the apprehension of William Roseberry, a fugitive from justice, said money to be paid by the Treasurer of State out of any money of the state not otherwise appropriated.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCCLXVII.

An Act extending the provisions of section 16, of the Revised Statutes of 1843, to the county of Lagrange.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the provisions of section 16 of the Revised Statutes of 1843, be, and the same are hereby extended to the county of Lagrange, and that all local acts and parts of acts contravening the provisions of this act, be and the same are hereby repealed.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCCLXVIII.

An Act to amend an act therein named.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the provisions of an act entitled "an act to provide for the election of township assessors in the counties therein named, and defining their duties," approved January 27th, 1847, shall be so construed, and is hereby declared to mean that the term of service of any assessor elected or appointed according to the provisions of said act; shall continue until the expiration of the time specified by law for making return of assessments by county assessors.

SEC. 2. This act to be in force from and after its passage.

## CHAPTER CCCCLXIX.

An Act to amend an act entitled "an act declaratory of and to amend an act authorizing Joseph Quinn and James Norvill, to erect toll bridges," approved January 19, A. D. 1846.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the two years mentioned in the sixth section of the act to which this is an amendment, allowed to Joseph Quinn and James Norvill to make and extend a certain road therein mentioned, be and the same is hereby extended one year from the expiration of the said two years.

SEC. 2. That the rights of said Quinn and Norvill, under the acts to which this is an amendment, shall in no way be affected or impaired by their failure to make and extend said road within the time limited, and in the manner prescribed in said sixth section; but their right to demand, receive, and sue for tolls, shall be as perfect and valid as if they had been allowed three years instead of two, by the acts to which this is an amendment, for the completion of said extended road.

SEC. 3. That an act entitled "an act to amend an act authorizing Joseph Quinn and James Norvill to erect toll bridges," approved January 23d, A. D., 1847, be and the same is hereby declared a nullity.

SEC. 4. It is hereby made the duty of the secretary of state to forward a certified copy of this act, immediately on its passage, to the clerk of the Shelby circuit court.

SEC. 5. This act to be in force from and after its passage.

## CHAPTER CCCCLXX.

An Act to incorporate the Wabash and Greenville Railroad Company.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That George Debolt, of Randolph county, Daniel W. McNeal, Jacob Bosworth, and Anthony Pilman, of Jay county, W. T. Shull, Josiah Swibb, and N. C. Rice, of Blackford county, Allen W. Smith, Hugh B. McKay, and J. B. Matlock, of Wabash county,

be and they are hereby constituted a body corporate and politic, to be known by the name and style of "the Wabash and Greenville Railroad Company," with power to raise a capital stock sufficient to construct and complete a railroad from Wabashtown, Wabash county, by the way of Warren in Huntington county, from thence to Mt. Pelier, in Blackford county, from thence to Camden in Jay county, and from thence to Portland, in Jay county, and from thence to Mount Hawley, in Randolph county, and from thence to the state line dividing the State of Ohio and Indiana, on the most direct and eligible route to Greenville, Ohio; and for the purposes contemplated in this section, the provisions of "an act to incorporate the Greenville and Shelbyville Railroad Company," approved January 28th, 1847, be and the same are hereby extended to the persons (and their successors in office) named or contemplated by this section, except the twenty-second section of said act.

SEC. 2. This act to take effect and be in force from and after its passage.

#### CHAPTER CCCXXI.

An Act to change the name of the town of Springfield in Wabash county.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the name of the town of Springfield, in Wabash county, be and is hereby changed to that of Somerset, and shall hereafter be known by such name in all records in said county.

SEC. 2. This act shall be in force from and after its passage.

#### CHAPTER CCCXXII.

An Act to amend an act entitled "an act to incorporate the Wabash and

Greenville Railroad Company," and for other purposes.

#### CHAPTER CCCCLXXII.

An Act to incorporate the Owensville Public House in the county of Gibson.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Wm. E. Wilson, John Smith, and George Goodyear, and their successors in office are hereby constituted a body politic and corporate, by the name and style of the Trustees of the Owensville Public House, and by said corporate name may sue and be sued, plead and be impleaded, in any court in this state, and by that name have perpetual succession, and be capable of purchasing and selling any personal and real property for the use of said house, both by legal and equitable title, not to exceed the value of ten thousand dollars.

SEC. 2. The trustees of said house shall establish such by-laws and rules for the government of the building as they may see fit; *Provided*, That they are not incompatible with the constitution and laws of the state, and that no by-law shall ever be enacted that shall have for its effect a tendency to defeat any of the uses for which said house was originally built, viz: for holding elections, general and township, for public preaching, without distinction of sect, for literary associations, and public discussions.

SEC. 3. The said trustees shall have power to fill any and all vacancies which may occur in their body, either by death, resignation, or otherwise.

SEC. 4. This act shall be in force from and after its passage.

#### CHAPTER CCCCLXXIII.

An Act for the benefit of the reserved township of Seminary land in Monroe County.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Thales H. Givens and John Blakely or either of them shall be allowed to enter, in the office of the commissioner of the reserved township of seminary land in Monroe county, a certain eighty acre lot of land, being the East half of the North East quarter of section number twenty-six in said township number eight North of range number one West, heretofore entered by one Michael

Keith, and which afterwards was transferred by him by a sale of the certificate of entry which is now lost, and which became forfeited before the sale thereof by said Keith; and that the said Givens and Blakely, or either of them, be allowed in said entry the full amount which said Keith had paid on said tract, and they or either of them shall have the same time of payment for the residue of the entrance money that other purchasers of said lands are entitled to; *Provided, however,* that before permitting an entry as herein contemplated, it shall be made satisfactorily to appear to said commissioner of said lands that the original certificate granted to said Keith was lawfully transferred by him, for which purpose said commissioner shall have power to administer oaths to such witnesses as may appear before him; and upon said proof being made, he shall issue a certificate of entry to said Givens and Blakely or either of them.

SEC. 2. That Jesse Daver be allowed and he is hereby authorized to enter the South East quarter of the South East quarter of section number twenty-six in said township aforesaid, in case the heirs of Jonathan Huntingdon (deceased) do not redeem the same according to the laws now in force on that subject, previous to the first day of June next; *Provided, however,* That before the said Daver is permitted to enter the said Huntingdon tract, that he shall redeem the North East quarter of the South East quarter of section number twenty-six in said township, and the commissioner shall be governed in all respects in the entry of said land by the existing laws in force at the time; and he shall make and file a record of his proceedings in said cases, with the treasurer of state, within thirty days thereafter, for which the said commissioner in each of the beforementioned cases shall be entitled to and receive one dollar as his fees out of said money.

SEC. 3. This act to take effect and be in force from and after its passage.

#### CHAPTER CCCCLXXIV.

An Act to correct a mistake in the commission of Justices of the Peace in Hanover Township in Shelby County.

[APPROVED FEBRUARY 15, 1848.]

WHEREAS, at an election held within and for the township of Hanover, in the county of Shelby, on the fifth day of April, 1847, Jonathan Johnston was duly elected one of the justices of the peace

of said township, and as the successor in office of William Blivin and Frederick M. Cole was duly elected to fill the vacancy in office occasioned by the expiration of the term of service of Darwin Dyer, one of the justices of said township, AND WHEREAS, through a mistake in the return of the judges of said election, or from some other cause, the said Jonathan Johnston has been commissioned as the successor in office of Darwin Dyer, and the said Frederick M. Cole as the successor of William Blivin; Therefore:

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That Jonathan Johnston is the successor in office of William Blivin, and the said Frederick M. Cole is the legal successor in office of Darwin Dyer, and as such entitled to the docket and papers of said Dyer.

SEC. 2. This act shall take effect and be in force from and after its passage.

#### CHAPTER CCCCLXXV.

An Act to authorize the board of commissioners of Allen county to sell certain real estate therein specified.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of Allen county are hereby authorized to sell at private sale or public auction, for cash or on credit, as they shall deem best, the following real estate, to wit: The town lot on the original plat of the town of Fort Wayne, and a tract of land adjoining said lot, formerly used for a burying ground, both of which were donated to said county for the purpose of a county seminary and burying ground; also, the west half of the south-east quarter of section No. eighteen, township No. thirty, north of range No. thirteen east, known as the "Poor House Farm."

SEC. 2. The board of commissioners shall direct the county auditor to execute a deed to the purchaser or purchasers, according to the condition of said sale, by and in their corporate name; which deed shall vest in said purchaser all of the estate and interest said county has in and to the said real estate.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCCLXXVI.

An Act to locate a state road in the counties of Howard, Miami and Wabash.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, [That]* John Webb, of the county of Howard, Eli Overman, of the county of Miami, and Gideon Steinberger, of the county of Wabash, be, and they are hereby, appointed commissioners to view, mark, and locate a state road: commencing at the town of Kocomo, in the county of Howard; thence on the nearest and best route to the south-east corner of section thirty-four, township twenty-five, north [of] range five east; thence on the section line to the Delphi state road, at Eli Overman's; thence on the nearest and best route to the north-east corner of section fourteen, township twenty-five north, range five east; thence on the nearest and best ground to intersect the Noblesville and Wabash state road at or near William Wall's, in Wabash county.

SEC. 2. The said commissioners, or a majority of them, shall meet on the second Monday in April, 1848, or as soon thereafter as may suit their convenience, at the town of Kocomo, and proceed to view, mark, and locate said road, and in so doing, shall be governed by the law for laying out and establishing highways, as found in the Revised Statutes of 1843.

SEC. 3. The said commissioners shall file, in the office of the auditor of each of said counties, a statement of their proceedings within thirty days after locating said road; and for locating the same, they shall receive pay according to the provisions of the seventh section, chapter sixteen, article one, page 327, of the Revised Statutes.

SEC. 4. Such commissioners may employ a surveyor, chainman and markers, should they deem the same expedient, in the location of such highway; and the surveyor, chainman, and markers shall severally receive and be paid a reasonable compensation for their respective service, to be allowed by the several county boards doing business in the several counties through which said road passes, in proportion to the distance which the road runs in each county.

SEC. 5. This act to be in force from and after its passage.

## CHAPTER CCCCLXXVII.

An Act to incorporate the town of Patriot, in Switzerland county, Indiana.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana, That* the inhabitants of the town of Patriot, in Switzerland county, be and they are hereby declared to be a body politic and corporate, with perpetual succession, by the name and style of "President and Directors of the town of Patriot," and by that name may sue and be sued, plead and be impleaded, defend and be defended in all courts of law and equity, and have a seal and alter the same at pleasure.

SEC. 2. The limits of said town shall include fractional section thirteen, town two, of range one west; and the south half of section twelve, from two of range one west, and extending to low water mark on the Ohio river.

SEC. 3. The officers of said corporation shall be a president and five trustees, three assessors, a collector, a treasurer, a clerk, and a marshal.

SEC. 4. The president and trustees shall be elected annually by the qualified voters of said town, residing within the limits thereof, and shall hold their offices for one year and until their successors are elected and qualified.

SEC. 5. The assessors, collector, treasurer, clerk, and marshal, shall be appointed by the town council, and shall hold their offices for one year and until their successors are appointed and qualified. The town council shall fix their compensation and alter the same.

SEC. 6. The president and trustees shall constitute a board, to be called "The Town Council," of which the president shall be *ex-officio*, the presiding officer.

SEC. 7. The members of the town council, exclusive of the president, shall constitute a quorum to transact business, and in case of the absence of the president, or a vacancy in his office, may elect one of their number president *pro tempore* of said council.

SEC. 8. It shall be the duty of the president to preside at all meetings of the council, unless when questions are pending in which he is personally interested; he shall not vote except in cases of a tie, when he shall give the casting vote.

SEC. 9. In case of vacancy in the office of president, or refusal to accept, such vacancy shall be filled by a new election, ten days notice having been given by the council in some public newspaper published in said town, or by notices posted up in three of the most public places in said town.

SEC. 10. In case of vacancy in the office of any trustee, such vacancy shall be immediately filled by the town council; such appointment to continue till the next annual election and until his successor is elected and qualified.

SEC. 11. A full and accurate record of the proceedings of the council shall be kept by the clerk, and each day's proceedings shall be signed by the president, or president *pro tempore*, and be attested by the clerk.

SEC. 12. It shall be the duty of the president, or president *pro tempore*, to sign all town ordinances and decrees of a public nature, and the duty of the clerk to attest the same before their publication.

SEC. 13. The clerk shall faithfully record, in a book to be kept exclusively for that purpose, and the by-laws, ordinances, and decrees of a public nature, which shall at all times be subject to the inspection of the voters of said town.

SEC. 14. Before entering upon the duties of his office, the president shall take an oath or affirmation for the faithful discharge of the duties of his office.

SEC. 15. The president, when elected and qualified, shall have jurisdiction in all cases of violations of any of the by-laws, ordinances, regulations, or decrees of the town council; he shall have power to issue process in all cases within his jurisdiction; shall proceed in the same manner and be entitled to the same fees as justices of the peace; he shall keep a docket, which in all respects shall have the same power and effect as a docket of a justice of the peace, and parties before him shall have the same rights to a trial by jury, and appeal to the circuit court, as if the suit were instituted and pending before a justice of the peace.

SEC. 16. It shall be the duty of the marshal to serve and return all process issued by the president, and his powers for this purpose shall be coextensive with the county of Switzerland; he shall attend on trials before the president, and shall be entitled to the same fees as constables for like services, and shall in addition to being the executive officer of the town council be a peace officer within the town; in case of absence or inability of the marshal, the president may direct process to any constable of Posey township, who may serve or return the same. The said president shall have authority to administer all oaths required under this act.

SEC. 17. No person shall be incompetent to be a witness or juror in trials for a violation of any by-laws, ordinances, regulation, or decree of the town council because such person may be a citizen of said town.

SEC. 18. The stated meetings of the town council shall be on the first Monday of each month, and special meetings may be called at any time by the president or a majority of the trustees, the trustees being duly notified.

SEC. 19. The trustees, assessors, collector, treasurer, clerk, and marshal shall severally be sworn faithfully to discharge their several duties upon entering thereon, and the treasurer, collector, and marshal shall severally enter bond, payable to the president and trustees of the town of Patriot, in such penalty as the town council may require, for the faithful discharge of their duties, and for faithfully accounting for all moneys that may come into their hands,

the security to be approved by the town council, what bond shall be filed in the office of the town clerk for the benefit of said corporation or any person injured.

SEC. 20. Every qualified voter of the state, not insane or a pauper, who shall have resided in the town of Patriot for six months next preceding the election, shall be entitled to vote for president and trustees of said town.

SEC. 21. On the first Monday in May, and annually thereafter, polls shall be opened at the school house, or some other convenient place in said town, for the election of a president and five trustees of said town. Of the first election ten days' notice shall be given by posting up a notice of the same in some public place in said town; said notice for such election shall be signed by seven householders of said town.

SEC. 22. The first election held under this charter, the meeting may be called to order by any voter of the town of Patriot present at such meeting, and any three qualified voters present may be elected as inspectors of said election by a plurality of the votes cast, one of whom shall preside at said election; and in all other respects the election shall be conducted as is hereinafter required in the annual election of the officers of said corporation.

SEC. 23. The president of said town, or in case of vacancy in his office, the president *pro tempore* of the town council, shall act as inspector of all elections in said town, and he shall take to his assistance two qualified voters of said town who shall act as judges; and said inspector and judges shall appoint a clerk of said election; all of whom, after being sworn or affirmed faithfully to discharge their duties as judges and clerk respectively of such election, (which the president of said town is authorized to administer) shall proceed to receive the votes, between the hours of ten o'clock, A. M., and four o'clock, P. M., on the day of the election; *Provided, however,* That if the president or president *pro tempore* shall fail to attend any election, the voters present may elect an inspector, who shall, after being sworn, proceed in place of said president to hold an election; after the polls are closed, the said inspector and judges shall proceed to count the votes given; and the said clerk shall keep a correct list of the voters and votes counted, and on or before the day subsequent to said election the inspector and judges, under their hands and seals, shall certify to the town clerk the name of the person receiving the highest number of votes for president of said town, and the names of the five persons receiving the highest number of votes for trustees, who shall thereupon be deemed duly elected, which certificate shall be by said clerk filed and recorded upon the record of the proceedings of the town council; when said certificate is filed and recorded, it shall be the duty of said clerk to make out and deliver to the several persons elected a certificate of his election.

SEC. 24. No person shall be eligible for president or trustees who is not a voter of said town.

SEC. 25. The town council shall have power to assess annually against each male inhabitant of said town who shall be twenty one years of age, (save he is a pauper,) a poll tax not exceeding fifty cents ; and upon the real and personal property within the limits of said corporation, an advalorem tax not exceeding two and one half of one per cent, excepting the *farms* and the personal property within said corporate limits, now owned by A. D. Bennet Solomon Weeks, E. M. Humphrey, Samuel Fisk, and Andrew Emerson, which *farms* shall not be taxed, without the owners' consent.

SEC. 26. The town council shall, on or before their stated meeting in March, determine whether any tax, either poll or property, on real or personal estate, shall be levied, and thereupon the clerk shall forthwith make out and deliver to the assessors a copy of the assessment roll of the previous year, together with a precept under the seal of the corporation, if any ; otherwise under his own seal or scroll, commanding him in the name of the corporation, on or before the first Monday in June next, to make return to the town council, a complete list of all persons liable to a poll tax as aforesaid, and of all real and personal property liable to be assessed and taxed by order of said town council, with the names of the owners if known, and whether resident or not ; and a just and fair valuation of the same.

SEC. 27. The assessors shall execute and return said precept according to the terms thereof, carrying out said list in alphabetical order of the names of all persons liable for such taxes, and every such assessment shall be made, or taken as if made on the first Monday in April annually, from which time the taxes of the then current year, shall be a lien upon the property assessed, and charged against the owners of such property till paid.

SEC. 28. So soon as the assessment roll shall be made out and returned, the town council shall determine the amount of poll tax, and the per centum of tax to be levied on the assessment ; and thereupon the clerk shall forthwith make out and deliver to the collector an alphabetical list of the persons named in said assessment roll, and the amount [of] taxes for the current year, and the delinquent taxes of the preceding year, if any, chargeable against each specifying whether the same is a poll or a property tax ; and if the latter, concisely describing the property with its assessed value, together with a precept under the seal of said corporators, if any ; if none, then under his own seal or scroll, commanding him in the name of said corporation, that he collect the taxes charged in said list, and that he return said writ and precept, and pay over the money so collected, on or before the fifteenth day of October next thereafter.

SEC. 29. The collector shall, on or before the first Monday in September, demand payment of the taxes of persons charged therewith respectively, or at their most usual place of residence, if residents, and upon payment, receipt therefor, specifying the year, amount of tax, and the property on which assessed.

SEC. 30. If said taxes shall not be paid on or before the first Monday in August, the collector shall proceed to collect the same by distress and sale of the goods and chattels of the person charged therewith, giving ten days' notice of the time and place of said sale by written or printed advertisements, put up in three of the most public places in said town.

SEC. 31. In all cases when there are no goods and chattels out of which to make the taxes due and chargeable against any of the property, or when property taxed belongs to non-residents, it shall be the duty of the collector to make sale of the lots or fractions of lots or other real estate belonging to such persons, or so much thereof as will pay the taxes and costs thereon, by giving at least three weeks' notice of the time and place of such sale in some weekly newspaper published in said town, if any ; if none, then by notices put up in three of the most public places in said town, with the owners' names if known, and if not, the names of the owners to whom the same is supposed to belong, and the amount of tax due ; and to file a copy of said advertisement with the clerk, to be by him placed with the records of said town ; the collector shall, on the day of sale, proceed to sell said lot or lots, or fractions of lots, or real estate to the highest bidder for cash, or to the person who will pay the taxes and costs due thereon for the smallest portion of the lot, lots, or fractions of lots so offered for sale, and shall give such purchaser a certificate of such sale, setting forth the quantity sold, the amount paid including taxes and costs, and that said purchaser shall be enabled to receive a deed for the same at the end of two years from the date of such sale, unless the owner or owners, or some person for them, shall redeem the same before that time by paying to said purchaser his, her, or their heirs or orphans the amount of said purchase money with fifty per centum thereon ; the said redemption money may be deposited with the clerk of said town for the use of said purchaser, his heirs, or assigns ; the said clerk shall report such deposits to the council at the meeting next thereafter, which shall be entered on record.

SEC. 32. In case the owner of any lot or lots, or fractions of lots, or other real estate, his, her, or their agent or attorney, shall not pay the amount of said purchase money, with the said per centum, within two years from the day of sale, it shall be the duty of the collector then in office to make a deed to the purchaser, his, her, or their heirs or assigns for such lot or lots, or fractions of lots, or other real estate, which deed acknowledged according to law shall vest the title in fee simple in such real estate in the purchaser, his heirs and assigns, and divest the owners of any title thereto ; and the assessments made on such property, and the tax and costs for which the same was sold shall be a lien on the same in the hands of any person who may purchase the same at private sale ; and no conveyance made by the owner of the same, after such assessment, shall so divest the owner thereof of the title to said lot or lots, or fractions of lots, or other real estate, or to interfere with the claims of

a purchaser under the provisions of this act; and any conveyance made by a collector under the provisions of this act shall be *prima facie* evidence of the regularity of all the proceedings prior thereto.

SEC. 33. The town council shall at all times have full power to refund any money wrongfully collected of taxes, and to correct any assessment or tax list as to them shall seem right.

SEC. 34. In addition to the powers heretofore granted, the town council shall have control of the finances, and of all belonging to said corporation, and shall have power within said town to make, establish, publish, alter, modify, amend, and repeal ordinances, rules, regulations and by-laws for the following purposes: First. To prevent, restrain, prohibit, and punish all description of crimes in said town. Second. To regulate or prohibit the exhibitions of common showmen and shows of every kind, or the exhibition of natural or artificial curiosities, caravans and circuses. Third. To prevent and punish any riot, noise, disturbance of any lawful assemblage or meetings, and to prevent and punish disorderly assemblies in said town. Fourth. To suppress and restrain disorderly taverns and groceries and gambling houses, and to authorize the destruction of all instruments used for the purpose of gaming, and to punish those who keep or maintain gaming houses, or other disorderly houses or groceries. Fifth. To compel the owners or occupants of any stable, barn, privy, sewer, or other unwholesome or nauseous house to cleanse, remove or abate the same from time to time, as often as may be necessary for the health or comfort, or convenience of the inhabitants of said town. Sixth. To prevent and punish horse racing, immoderate riding, or driving in said town. Seventh. To prevent the incumbering of streets, side-walks, lanes, and alleys with wagons, carriages, carts, sleighs, sleds, drays, wheelbarrows, boxes, lumber, firewood, timber, or any other substance whatever. Eighth. To prevent the running at large of dogs, and to authorize the destruction of the same when running at large contrary to an ordinance of said town. Ninth. To prohibit and punish the bringing, having, or depositing within said town any dead carcass, or other unwholesome substance. Tenth. To prohibit and punish any amusement or practice having a bearing to indecency, the safety of persons passing the streets, or to frighten teams or horses in said town. Eleventh. To abate and remove nuisances within the corporate limits of said town. Twelfth. To regulate the weighing and selling of hay, and of measuring and selling of wood, and to appoint suitable persons to superintend the same. Thirteenth. To establish and regulate town pounds. Fourteenth. To establish work houses and prescribe regulations thereof. Fifteenth. To purchase fire engines and organize fire companies. Sixteenth. To prohibit the selling by retail of any spirituous liquors, or ardent spirits to be drank in the store, grocery or tavern, shop, yard, or garden, or any other place, owned or occupied by the person selling the same without a license from the said town council, and to this end said council shall have power to fix and determine the amount to be paid for said license, which sum shall not exceed the

rates fixed for county license, to fix fines and penalties for a violation of their ordinances regulating groceries, and the retailing of such liquors or spirits. Seventeenth. To regulate selling at private or public sale, by pedlers and traveling merchants, and to fix the amount of lease to be paid therefor.

SEC. 35. The town council shall have power from time to time to appoint such additional *Assistant Marshals* or other officers or agents as they may deem necessary to carry out and enforce the orders, ordinances, by-laws, decrees, and regulations of said corporation, and to prescribe their duties, regulate their compensation, and the said officers to remove at their pleasure.

SEC. 36. The said town council shall by their own regulations fix the time and manner of their appointing assessors, collectors, township clerks, marshals and other officers and agents, and for filling vacancies in said offices.

SEC. 37. The said town council may do and perform all things necessary to carry into effect the powers granted to them by this act, and enforce obedience to all rules, regulations, ordinances, and by-laws made in pursuance of this act, by imposing fines and penalties for the violation thereof, not exceeding one hundred dollars for any one offence, to be recovered in the name of said corporation by its corporate name, before the president of said town or any justice of the peace of the township of Posey in an action of debt with costs of suit.

SEC. 38. Said rules and every ordinance, by-law, or regulation, of a public nature, or imposing a fine, penalty, or forfeiture for a violation of its provisions, shall, before the same takes effect, be published for three weeks successively in some public newspaper printed in said town, or by written or printed advertisements posted up in three of the most public places in said town, in such latter mode of publication, such laws, regulations or ordinances to be in force after the lapse of twenty-one days from the time the same was posted; proof of such publication by the affidavit of the clerk, treasurer, or marshal of the town council, taken before any person authorized to administer oaths, shall be conclusive proof of such publication and of the existence of such ordinances, by-laws, regulations, or-decrees, in all courts of justice.

SEC. 39. In all actions brought to recover any fine, penalty, or forfeiture incurred under any by-law, ordinance, regulation, or decree made in pursuance of this act, it shall be lawful to declare in debt generally for such penalty or forfeiture, stating the by-law, ordinance, or regulation, under which the penalty or forfeiture is claimed, and to give the special matter in evidence, and the defendant may in like manner plead the general issue and give all matters of defence in evidence under that issue.

SEC. 40. The first process in all such cases shall be a *capias*, and execution may be issued immediately on the rendition of judgment, the defendant at all times to have the same right to replevy such judgments, as in case of judgments before justices of the peace,

and the service of executions on judgments at law, rendered before justices of the peace, and all fines and penalties and forfeitures when collected, to be paid to the treasurer for the use of the corporation.

SEC. 41. It shall be part of the judgment in all such cases that the defendant stand committed to the jail of the county of Switzerland until such judgment be paid or replevied; in case such defendant be committed to jail for failing as aforesaid, to pay or replevy any such fine or forfeiture and costs, he shall be held and detained in jail until the same be discharged by such detention, at the rate of fifty cents per day, and the warrant of the president or justice of the peace rendering such judgment, shall be sufficient authority for the jailor of the county of Switzerland to receive and detain such defendant, whose duty it shall be to receive such person in his custody, such warrant shall be sufficient authority for the officers executing the same; *Provided, however,* That the said corporation shall furnish suitable provisions to offenders, imprisoned by virtue of this act, and; *Provided, also,* That the said town council may in their discretion, remit either in whole or in part, any fine, penalty, or forfeiture, assessed against any such offender.

SEC. 42. The town council shall have the sole and exclusive control of the streets, alleys, and lanes of said town, with power to fix a grade and landing at the river in a good and substantial manner, to improve and open any street or streets, lanes or alleys, in said town, as the town council may think proper, from time to time.

SEC. 43. Whenever the owner of any lots or fractions of lots on any street or section of streets, lane, or alley, be desirous of having the same graded, graveled, or paved, or any other improvement made, if the owners resident of such street or section of street, lane, or alley, and representing two-thirds of the whole number of feet on each side of the street, section of street, lane or alley, as two-thirds of the whole number of feet on any side of any sidewalk to be improved, shall by themselves or agents, by petition to the town council represent plainly the kind of and nature of the improvement desired, the said town council shall proceed to cause such improvement to be made as to them shall seem best, and to defray the expense of the same, the said council may lay and charge the amount of such expenses on all the lots fronting on such street, section of street, lane or alley, according to the value of the lots or fraction of lots, exclusive of improvements, for the distance such improvement extends, which assessment and levy, from the time the same is made, shall be a lien upon such lot or lots, until the amount so levied and assessed shall be fully paid. The said assessment and levy shall be collected by the collector of said town, in the same manner and form as is provided in the preceding sections of this act, for the collection of other corporation taxes. The value of such lots shall not be assessed by the assessor, under the direction of the town council.

SEC. 44. This act shall be a public act and shall be liberally construed in all courts of justice in this state, and take effect and be in force from and after its passage.

## CHAPTER CCCCLXXVIII.

An Act to authorize the county commissioners of Adams county to employ a prosecuting attorney for said county.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the board of commissioners of Adams county be and they are hereby authorized to employ the prosecuting attorney of any county adjoining said county of Adams, either by the year or otherwise, until a regular prosecuting attorney is elected for said county, and to make such allowance for his services as they shall deem right, to be paid out of the county treasury.

SEC. 2. It shall be the duty of the attorney so employed to attend to all prosecutions required of him in said county of Adams, and his acts shall have the same force and effect as if he had been duly elected the prosecuting attorney for said county.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCCLXXIX.

An Act to incorporate the Ohio and Mississippi Rail Road Company.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That John Law, David S. Boner, Samuel Judah, Abner T. Ellis, William Barch, John Ross, John Wise, Benjamin M. Thomas, Samuel Emerson, William R. McCord, Cyrus M. Allen, Abraham Smith, Isaac Mass, John Moore, James Johnson, and Henry D. Wheeler, of the county of Knox, and State of Indiana, Richard A. Clemens, of the county of Daviess, and State of Indiana, Thomas J. Brooks, of the county of Martin, and State of Indiana, Samuel

F. Irwin, of the county of Lawrence, and State of Indiana, Medy W. Shields, of the county of Jackson, and State of Indiana, John I. Morrison, of the county of Washington, and State of Indiana, William Berry, of the county of Monroe, and State of Indiana, John Vauter, of the county of Jennings, and State of Indiana, Aquilla Jones, of the county of Bartholomew, and State of Indiana, Thomas Smith, of the county of Ripley, and State of Indiana, William T. Ferris, of the county of Dearborn, and State of Indiana, James Hall, John C. Wright, Joseph Lawrence, of the city of Cincinnati, and State of Ohio, Joseph O. Bowman, of the county of Lawrence, and State of Illinois, Alfred Kitchell, of the county of Richland, and State of Illinois, Arthur McCauley, of the county of Clay, and State of Illinois, Harry T. Price, of the county of Marion, and State of Illinois, Benjamin Bond, of the county of Clinton, and State of Illinois, John Reynolds, of the county of St. Clair, and State of Illinois, and Bryan Mullamphy, Ferdinand Kennett, William Campbell, George K. McGonegle, and William Carr Lane, of the city of St. Louis, and State of Missouri, and their successors in office, duly elected as hereinafter provided, are hereby constituted a body corporate and politic, by the name of "The President and Directors of the Ohio and Mississippi Rail Road Company," with perpetual succession, and by such name shall be capable to sue and be sued, plead and be impleaded, answer and be answered unto, either in law or equity, in any court of competent jurisdiction; and shall have power to make and use a common seal, and the same to alter at pleasure buy and sell, hold and convey real and personal estate, necessary or proper to carry out the objects of this charter, or in securing or collecting the debts of said corporation, to make contracts and enforce the same, and to establish and put in force such by-laws, rules and regulations, as may be necessary or proper to carry into effect the provisions of this act, and shall have all the other powers incident to corporations at common law, not inconsistent with the constitution and laws of this state and of the United States, or of any state assenting to this act, so far as said rail road may pass through the same.

SEC. 2. The capital stock of said company shall be five millions of dollars, to be divided into shares of fifty dollars each: *Provided*, That if the capital stock of said company, or the actual amount at any time subscribed shall be deemed insufficient for the purposes aforesaid of this act, it shall and may be lawful for the president and directors of said company, from time to time, to increase the said stock by the addition of as many shares as they may deem necessary, for which they may, at their option, cause subscriptions to be received in the manner prescribed by them, or may sell the same for the benefit of the company.

SEC. 3. The directors named in this act, and those elected as hereinafter provided, a majority or any sixteen of them, may meet at such time and place as they, a majority, or any sixteen of them may agree upon, upon a reasonable notice, by mail to said direc-

tors, and organize by the election of one of their own body as president, and the election of a secretary and treasurer. After such organization, any ten members, or any other number prescribed by the by-laws of the company, shall constitute a quorum for the transaction of business; and the said president and directors elected under this act, shall continue in office until the next annual election and until their successors are elected and organized.

SEC. 4. The corporation shall have power to appoint agents, clerks, treasurers, surveyors, engineers, superintendents, artists, and all other officers and persons necessary to carry into effect the objects of this act, and the same to remove at pleasure, and from time to time to fix their compensation. They shall keep a journal of their proceedings, in which shall be entered all the by-laws, rules, regulations, and all orders for the payment of such allowances as may be made to their officers, contractors, and all others in their employ; which journal shall, from time to time, be read before the board of directors, and if found to be correct, signed by the president. They may sit on their own adjournment, or on the call of the president, or any three directors; and when the president is absent, they may elect a president *pro tempore*, and they shall fill all vacancies that may happen in their own body.

SEC. 5. The corporation shall cause books to be opened for subscription to the capital stock at such time and at such place or places as they may choose, due notice of which shall be given in at least one newspaper published in the town or city where said books are proposed to be opened, if any newspaper should be published in said town or city, in each of which books shall be entered as follows, to-wit:

We, whose names are subscribed hereto, do promise to pay to the "President and directors of the Ohio and Mississippi Railroad Company," the sum of fifty dollars for every share of stock set opposite our names respectively, in such manner, proportions, and times as shall be determined by said company, in pursuance of the charter thereof. Witness — the — day of — 184 . Upon every subscription there shall be paid at the time of subscribing to the said president and directors, or their agent appointed to receive the same, the sum of two dollars on every share subscribed, or any less sum, as may be directed by said corporation.

SEC. 6. It shall be lawful for all persons of lawful age, for the agent of any corporation, or agent of the United States, on behalf of the same, to subscribe for any amount of capital stock, and the books shall be kept open for any such space of time, and at such place or places as the corporation shall choose, and may be reopened at any time; and they may, by agent or otherwise, offer for sale at any place any amount of stock upon such terms and conditions as may be thought advisable. The said president and directors shall have power to borrow money upon the credit of the company and such other security as may be in the possession of the corporation, to promote the objects of this act, on such terms as to interest

and payments as shall be deemed most for the interests of the company.

SEC. 7. As soon as two hundred thousand dollars are subscribed for, as above directed, it shall be the duty of said president and directors to give three weeks' notice thereof in one or more newspapers; and in such notice appoint a time and place for the stockholders to meet and elect from seven to twenty-one directors, as they may determine, and such election shall be conducted by three judges appointed by the stockholders present; and the persons having a plurality of votes given and counted in public, shall be declared duly elected. No share shall confer a right to vote at any election unless the same shall have been held one month previous to the election; in all elections one share shall entitle the holder to one vote; and votes may be given by the person owning the same, or by one of any partners, or by the husband, father, mother, administrator, executor, trustee, or guardian, or by the authorized agent of any corporation, or of the United States, or any person having a right to vote may vote by written proxy.

SEC. 8. All elections after the first shall be held on the first Monday in June annually, under the direction of three stockholders as judges, not directors at the time, to be appointed by the board of directors at a previous meeting, or by the stockholders present, at the time of holding said election, of which election notice shall be given in some newspaper for three weeks prior to such election: *Provided*, That if from any cause whatever there should be no election held on the day appointed by this act or by the directors for the first election, it shall be lawful to hold the election on any other day.

SEC. 9. Certificates of stock shall be given to the stockholders which shall be evidence of stock held, which certificates shall be signed by the president and countersigned by the secretary. The stock shall be assignable by transfer on the books of the company personally or by agent or attorney, or by the administrator or executor or guardian, the consent of the president and directors being thereto had; but such stock shall be held at all times by the company for any dues from the holder thereof to the corporation, or for any sums that may thereafter become due on contracts made prior to such transfer: *Provided*, That after a full payment of any of the shares in the said capital stock, the certificate therefor shall be assignable by endorsement upon the same.

SEC. 10. The corporation shall have power to call for such portions of the stock subscribed, not exceeding fifteen dollars on each share in any one year, as they may think proper, to be paid at such time and place as they may designate by giving sixty days' notice in some newspaper of general circulation where such stock is made payable, in which shall be specified the amount demanded on each share, and the time and place of payment. If any stockholder shall neglect or refuse to pay any such requisition within ten days after the time named for such payment, the corporation may bring suit

against such delinquent for the amount due and called for, in any court of competent jurisdiction, and recover the amount due, with ten per centum damages for such detention, and if the amount cannot be made on execution, or if such delinquent is out of the State, then the corporation may, by an order on their books, declare such stock forfeited to the corporation, with whatever amount may have been paid thereon; and no such delinquent, before the forfeiture of the stock, shall have any right to vote for directors or receive any dividend on his, her, or their stock, until the corporation is fully satisfied.

SEC. 11. That the president and directors of said company shall and may, if they deem necessary, receive for and on account of any subscription to said stock after one third of said subscription has been paid in by any stockholder, to wit: for the residue of said subscription of two thirds due and payable, the bond of such stockholder payable at such place and such time as said president and directors may determine, not to exceed thirty years from the date thereof, with interest thereon at the rate of seven per centum per annum from date of same, payable semi-annually, secured by mortgage on the fee simple of unincumbered real estate, the fair cash value of which shall be (exclusive of perishable improvements) at least equal to twice the amount of such bond. The said bonds and mortgages to be taken in such manner as may be provided for by said president and directors, and may be assigned, if necessary, by them to raise funds for the use of the company for the purposes specified in this act.

SEC. 12. It shall be lawful for the county commissioners of any county in the State of Indiana through which said railroad passes, for and on behalf of such county to authorize, by order on their records, so much of said stock to be taken in said railroad as they may deem proper at any time within five years after opening the books of subscription to said stock: *Provided, however*, That it shall be and is hereby made the duty of said county commissioners in any county through which said railroad may pass, in the State of Indiana, to subscribe for stock for and on behalf of said county if a majority of the qualified voters of said county at any annual election within five years after said books are opened, shall vote for the same by placing on their tickets "Subscription to Railroad Stock."

SEC. 13. That the president and directors of said company shall be and they are hereby invested with all the rights and powers necessary and proper for the survey, location, construction, and repairing of a railroad on the most direct and practicable route between Lawrenceburg, on the Ohio river, and Vincennes, on the Wabash river, having in view the interests of the company and the convenience of the citizens of the State of Indiana, and to extend eastwardly on the like most direct and practicable route to the city of Cincinnati, in the State of Ohio, and to extend westwardly on the like most direct and practicable route through the State of Illinois to the city of St. Louis, in the State of Missouri; said routes

to be by them determined not exceeding eighty feet in width, with as many set of tracks as said president and directors may deem necessary or proper, and they may cause to be made, or contract with others for making, said railroad or any part of it; and they, their agents, or those with whom they may contract for making any part of the same, or their agents may enter upon and use and excavate any land that may be wanted for the site of said road or the erection of warehouses or other works necessary and proper for said road or for any other purpose, necessary, useful or proper in the construction, using, or repairing said road or its works, and that they may build bridges, fix scales and weights; may lay rails; may take and use any earth, timber, gravel, stone, or other materials which may be wanted for the construction or repair of any part of said road or any part of its works; and may make and construct all work whatsoever which may be necessary and expedient in order to the proper completion and proper use of said road: *Provided*, That said corporation shall not undertake the construction of said road beyond the limits of the State of Indiana until the right of way shall have been granted in the state wherein it is proposed to construct the same.

SEC. 14. That the president and directors of said company, or any person authorized by them may, either before or after the location of any section of said road, obtained from any person or persons through whose land the same passes, a relinquishment of so much of the land as may be necessary for the construction or location of said road, or may be convenient or proper for the same, as also the stone, gravel, timber, and other materials; and it shall be lawful for said corporation to receive by donations, gifts, grants or bequests, land, money, labor, property, stone, gravel, or other materials for the benefit of said corporation, and all such contracts, relinquishments, donations, gifts, grants and bequests, made and entered into in writing, by any person or persons capable in law to contract, made in consideration of such location, for the benefit of said corporation, shall be binding and obligatory; and the corporation may have their action at law in any court of competent jurisdiction to compel the same: *Provided*, That all such contracts and relinquishments, donations, gifts, grants and bequests, shall be fully and plainly made in writing and signed by the party making the same.

SEC. 15. That in all cases where any person or persons through whose land the road may run, shall refuse to relinquish the same, or when a contract between the parties cannot be made for materials along the route, it shall be lawful for the corporation to give notice to some justice of the peace in the county where the difficulties may occur that such facts do exist, and such justice of the peace shall thereupon summon the owner of such land, or such materials to appear before him on a particular day within ten days thereafter, and shall appoint six disinterested persons of the neighborhood, who shall, after taking an oath faithfully and impartially to assess

the damages, if any, view the land and materials, and after having taken into consideration the advantages as well as disadvantages the road may be to the same, and shall report thereon whether such person or persons is or are entitled to damage or not, and if so, how much, and shall file such return with such justice; whereupon said justice shall enter judgment thereon, unless for good cause then shown; and in case either party should show sufficient cause why judgment should not be entered, the justice may grant a review of the premises, either with or without costs: *Provided*, That either party may at any stage of the proceedings appeal to the circuit court of the proper county as in other cases, and such court shall appoint reviewers as above directed, who may report at that or any succeeding term in the discretion of the court, and the judgment of the circuit court shall be final.

SEC. 16. And in all cases where the owner or owners of such land or materials shall be minors, insane persons, or reside out of the county where such lands or materials may be situate, such justice shall cause three notices of the application made, and of the day fixed for the appointment of viewers to be posted up in three of the most public places in the county; and if no person shall attend on the day named in said notice, the said justice shall adjourn the same until that day two weeks, at which time he shall proceed as if such person or persons had been duly notified personally to attend, and on such judgment being rendered, and said corporation complying therewith, by the payment of costs or damages awarded against them, the corporation shall be seized in fee simple of the land and of the materials for the sole use of the corporation; costs shall be allowed or awarded against either party at the discretion of the court trying the same.

SEC. 17. That when said corporation shall have procured a right of way as hereinbefore provided, they shall be seized in fee simple of the said lands, and shall have sole use and occupation of the same, and no person, body politic or corporate, shall in any way interfere therewith, molest, disturb, or injure any of the rights and privileges hereby granted, or that would be calculated to detract from or affect the property of said corporation.

SEC. 18. The corporation shall commence the construction of said road at any time within five years from the opening of the books, and from time to time construct the same as may be within the ability and to the interest of the company, and shall complete it, at least within the State of Indiana, within twenty years from its commencement: *Provided*, That if the road should not be completed within the time aforesaid the General Assembly may, for good cause shown, give further time for its construction: *Provided*, also, If any part of said road shall be completed within the time aforesaid, in that case all the rights, privileges, and benefits granted in this act shall be extended to and vested in said corporation to such part of said road as shall be completed.

SEC. 19. That wherever in the construction of said road it shall be necessary to cross or intersect any established road or highway, it shall be the duty of said president and directors so to construct said road across such established road or highway as not to impede the passage or transportation of persons or property along the same, or when it shall be necessary to pass through the land of any individual, it shall also be their duty to provide for such individual proper wagon or cart ways across said road or roads from one part of his, her, or their land to the other; and also when it may be necessary to cross any navigable river or water course, such crossing must be done without the obstruction of the navigation upon such river or water course.

SEC. 20. That it shall be lawful for such corporation to purchase and place or prescribe the kind of carriages that may be used on said road, whether propelled by steam or other power, for the transportation of passengers, and of all kinds of products, lumber, goods, wares, merchandize, or other kind of property, and for this and other purposes the said corporation may construct said road with such turnouts, gates, bridges, viaducts, culverts, toll and ware houses as may be considered necessary and proper for the interests of the corporation and convenience of the public; and the corporation may charge and receive such tolls and freights for the transportation of persons, commodities, and carriages on said road or any part thereof as shall be for the interest of said company, and to change, lower, or raise the same at their pleasure; *Provided*, That the rates established from time to time shall be posted in some conspicuous place or places on said road; *Provided, further*, That when the aggregate amount of dividends declared shall amount to the full sum invested and ten per centum per annum thereon, the legislature may so regulate the tolls and freights that not more than fifteen per centum per annum shall be divided on the capital employed, and the surplus profits in proportion to the cost of construction of said road in the State of Indiana, after paying expenses and reserving such proportion as may be necessary or proper for future contingencies, shall be paid over to the treasurer of the State of Indiana for the use of common schools; but the corporation shall not be compelled by law to reduce the tolls and freights so that a dividend of fifteen per centum per annum cannot be made; and it shall be the duty of the corporation to furnish the legislature, when required, with a correct statement of the amount of profits, after deducting all expenses, which statement shall be made under the oath of the officer whose duty it shall be to make the same.

SEC. 21. Semi-annual dividends of so much of the profits as the corporation may deem expedient, shall be made on the first Monday in December and June of each year, unless the president and directors decide on different days, and pay to the stockholders as soon thereafter as they can with convenience, and no dividends shall be made to a greater amount than the nett profits after deduct-

ing all the expenses; and the president and directors may retain such proportion of the profits as a contingent fund to meet subsequent expenses, as they shall deem proper.

SEC. 22. That if any person or persons shall wilfully, by any means whatever, injure, impair, or destroy any part of said railroad constructed by said corporation under this act, or any of their works, buildings, carriages, vehicles, machines, or other property, such person or persons so offending shall each of them for every such offence forfeit and pay to said corporation a sum equal to tenfold the damage done, which may be recovered in the name of said company, by an action of debt in the circuit court of the county wherein such offence shall be committed, and shall also be subject to indictment in said court, and upon conviction of said offence, shall be punished by fine and imprisonment in any sum not exceeding tenfold the injury to said corporation, and for any period not exceeding six months, at the discretion of the jury or court before whom the same may be tried.

SEC. 23. That a general meeting of the stockholders of said company shall be held annually at the time and place appointed for the election of directors of said company; that they may be called at any time between the annual meetings by the president and directors, or by the stockholders owning one-fourth of the whole stock subscribed, upon giving thirty days' notice in at least three public newspapers published in places along the route of said railroad of the time and place of holding the same; and when any such meetings are called by the stockholders, such notice shall specify the particular object of the call; and if at any such called meetings a majority (in value) of the stockholders of said company are not present in person or by proxy, such meetings shall be adjourned from day to day, without transacting any business for any time not exceeding three days; and if within said three days stockholders having a majority of the stock in value subscribed do not thus attend, such meeting shall be dissolved.

SEC. 24. That at the regular annual meetings of the stockholders of said corporation, it shall be the duty of the president and directors in office the preceding year, to exhibit a clear and succinct statement of the affairs of the corporation; that at any called meetings of the stockholders a majority of those present may require similar statements from the president and directors, whose duty it shall be to furnish them when required, as also to submit at such meetings all books and accounts of said company to the inspection of the stockholders, as also at all times to the inspection of committees appointed by the stockholders at any of their meetings.

SEC. 25. That every president and director of said company, before he acts as such, shall swear or affirm, as the case may be, that he will well and truly discharge the duties of his said office to the best of his skill and judgment. The said president and directors may require a like oath to be administered to the secretary, treasurer, and others in their employ, and in addition thereto bonds

with security in such amount as they may think advisable, conditioned for the faithful performance of the duties of their several offices.

SEC. 26. That full right and privilege is hereby reserved to the citizens of this state and the State of Ohio and Illinois, or any company hereafter to be incorporated or heretofore incorporated under the authority of either of said states to connect with the said railroad hereby provided for, and especially for the New Albany and Salem Railroad Company, to connect with said railroad at such convenient point as may be elected by said company last mentioned; *Provided*, Said connections shall be formed with said railroad on terms usual in such cases, and that in forming such connection no injury shall be done to the works of the company hereby incorporated.

SEC. 27. The said corporation shall in no case directly or indirectly engage in any kind of trade, or deal in merchandise, other than such as may be necessary or proper to carry into effect the objects contemplated by this act; nor shall said corporation, under any pretext whatever, enter into a banking business, for the purpose of receiving deposits, making discounts, or issuing bills of credit, or bills or receipts of any kind or description, to pass as a circulating medium.

SEC. 28. No higher rate of an *ad valorem* or other tax shall be imposed upon the stock or property of said company than is imposed upon stock or other property in the state in rateable proportion to its value or income; and that only upon, or in proportion to, the actual cost of construction of said road within the State of Indiana.

SEC. 29. That when said road is located it shall be the duty of said corporation to cause a plat of the same to be deposited so far as said road is in the limits of the State of Indiana, in the office of the secretary of state of said state, and so far as said road is in the limits of the State of Ohio, in the office of the secretary of state of said state; and so far as said road is in the limits of the State of Illinois, in the office of the secretary of state of said state; and from and after the said several times of said several deposits it shall not be lawful for said corporation to alter or change said location or any part thereof, unless said corporation pay the owner or owners of lands on such changed route, the amount of damages they may sustain by such re-location.

SEC. 30. This act shall take effect and be in force from and after its passage, and shall be deemed and taken to be a public act, and construed liberally for the objects therein set forth, and the regular organization of the corporation under the same shall be presumed and considered as proven in all courts of justice.

[The foregoing bill was presented to me on the 8th day of February, 1848, for approval; but official duties having prevented the desired research, it has not been approved nor returned to the Senate with my objections down to this, 14th day of February, 1848, and has therefore become a law. JAMES WHITCOMB.]

## CHAPTER CCCCLXXX.

An Act to repeal "An act fixing the salary of the auditor of Miami county," approved January 27, 1847.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "An act fixing the salary of the auditor of Miami county," approved January 27, 1847, be, and the same is hereby, repealed.

SEC. 2. The general laws of the state, so far as the same relate to the fees of said officer, be, and the same are hereby, revived and declared in force.

SEC. 3. The board of commissioners of said county are hereby authorized and required to allow James M. Defrees, auditor of said county, in addition to his present salary of four hundred dollars, a sum equal to the difference between the said salary of four hundred dollars and the whole amount of fees and perquisites charged by the said auditor for the year 1846, computing from the first day of March, 1846, to the first day of March, 1847.

SEC. 4. This act to be in force from and after its publication in the Indiana State Journal.

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## CHAPTER CCCCLXXXI.

An Act to provide for the establishment of a horse boat ferry across the Wabash river at the town of Williamsport.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That James H. Buel, of the county of Warren, be, and he is hereby, authorized and empowered to establish a horse boat ferry across the Wabash river at the town of Williamsport, in said county of Warren, said ferry to be conducted as other ferries are, and to be regulated and governed by the laws now in force or which may hereafter be in force in relation to ferries.

SEC. 2. All acts and parts of acts coming within the purview of this act be, and the same are hereby, repealed.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCCLXXXII.

An Act to better enable the citizens of congressional township No. 20 north, of range No. 5 east, in the county of Hamilton, to sell school lands.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That hereafter when any election shall be held in congressional township number twenty (20) north, of range number five (5) east, in the county of Hamilton, for the purpose of taking a vote on selling the school lands in said township, and a majority of the votes cast at such election shall be in favor of selling such school lands, it shall be the duty of the trustees or other proper authorities to proceed with and make sale of such school lands voted to be sold as required by law; *Provided*, That due notice has been given of the intention of taking such vote, as required by law.

SEC. 2. All laws or parts of laws contrary to the provisions of this act be, and the same are hereby repealed, so far as congressional township number twenty north, range five east, is concerned.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCCLXXXIII.

An Act to authorize the location and establishment of a state road from Bedford in Lawrence county, by Clear Spring in Jackson county, to Columbus in Bartholomew county.

[APPROVED FEBRUARY 15, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That William Duncan and George W. Carr, of Lawrence county, and Abraham Branaman and Brison Miller, of Jackson county, and Burris Moore and Isaac Watkins of Bartholomew county, be and they are hereby appointed commissioners, and authorized and empowered to survey, locate, and establish a state road from Bedford in Lawrence county, on the nearest and best route to Clear Spring, in Jackson county, thence through or near the center of Ohio township in Bartholomew county, intersecting the Madison and Indianapolis state road at Columbus in said county of Bartholomew.

SEC. 2. It shall be the duty of said commissioners, or a majority of them, to meet at Bedford, in Lawrence county, on the first Monday in July next, and after having been duly sworn or affirmed by

some officer of Lawrence county authorized to administer oaths, well and faithfully to discharge their duty as commissioners, which oath or affirmation shall be filed in the office of the clerk of said county of Lawrence, to proceed to survey the said road by the nearest and best route, and locate and establish the same; *Provided, however*, That the said commissioners may adjourn from time to time so as the said road shall be located, surveyed, and established on or before the first Monday of November next.

SEC. 3. All the provisions of article one, chapter sixteen, of the Revised Statutes of 1843, when not contrary to the provisions herein, shall apply to this act.

SEC. 4. This act to be in force and take effect from and after its publication in the "Indiana State Journal."

## CHAPTER CCCCLXXXIV.

An Act to locate a state road therein named from Heltonsville, in Lawrence county, through Brown and Jackson counties, to Columbus, in Bartholomew county.

[APPROVED FEBRUARY 9, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Russel Mitchell and William Houston, of Lawrence county, and Patterson Patterson, of Brown county, and John Hill and William Winkler, of Jackson county, and David Lock, of Bartholomew county, be and they are hereby appointed commissioners, and authorized and empowered to survey, locate, and establish a state road from Heltonsville, in Lawrence county, on the nearest and best route through Brown county, thence the nearest and most direct route to Columbus, in Bartholomew county.

SEC. 2. It shall be the duty of said commissioners, or a majority of them, to meet at Heltonsville, aforesaid, on or before the first Monday in July next, and after having been duly sworn or affirmed by some officer of Lawrence county authorized to administer oaths, well and faithfully to discharge their duty as such commissioners, which oath or affirmation shall be filed in the office of the clerk of said county of Lawrence, to proceed to survey the said road by the nearest and best route, and locate and establish the same; *Provided, however*, That the said commissioners may adjourn from time to time so as the said road shall be located, surveyed, and established on or before the first day of November next.

SEC. 2. This act to take effect and be in force from and after its passage, and a certified copy thereof filed in the clerk's office of

Lawrence county, and all the provisions of article one, chapter sixteen, of the Revised Statutes of 1843, when not contrary to the provisions herein, shall apply to this act.

### CHAPTER CCCCLXXXV.

An Act to revive an act entitled "An act to authorize the location and establishment of a state road from Salem, in Washington county, by Lawrenceport, on White river, to Bedford, in Lawrence county," approved January 21, 1847.

[APPROVED FEBRUARY 16, 1848.]

WHEREAS, an act entitled "An act to authorize the location and establishment of a state road from Salem, in Washington county, by Lawrenceport, on White river, to Bedford, in Lawrence county," approved January 21, A. D. 1847, became null and void by the provisions of the second section thereof, which required the commissioners therein named to meet at the court house in Salem on the second Monday in April thereafter; AND WHEREAS, the laws were not distributed until after the time aforesaid had expired; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the provisions of the said act be, and the same are hereby, revived and declared to be in full force, and extended so that it shall be the duty of the said commissioners, or a majority of them, to meet at the court house in Salem on the second Monday in April next, or as soon thereafter as may be convenient, and then and there enter upon the discharge of the several duties enjoined and required by the aforesaid act.

SEC. 2. This act to be in force from and after its passage, and it is hereby made the duty of the secretary of state to transmit to the clerks of the counties of Washington and Lawrence a copy of this act duly authenticated under the seal of the state.

WHEREAS, It has been represented to this General Assembly, that John Wilkie of Edinburg in Scotland, between the years 1821 and 1825, was the purchaser of two-thirds of the east half of

### CHAPTER CCCCLXXXVI.

An Act to legalize the incorporation of the Mount Hope Cemetery near Peru, and for other purposes.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the incorporation of Mount Hope Cemetery, near Peru in the county of Miami, and all acts heretofore done by the said corporation through its proper officers, be and the same are hereby legalized.

SEC. 2. The said corporation shall have the power to sell and convey any and all burying lots which have heretofore been, or may hereafter be laid off by said corporation in such manner as the said corporation may prescribe, and any certificate of purchase for any lot or lots heretofore given to any purchaser, or which may hereafter be given to the purchaser of any lot or lots, under the seal of the said corporation, attested by its clerk, shall vest the fee simple of the said lot or lots in such purchaser, his heirs or assigns, and shall be evidence therefor in any court of law or equity.

SEC. 3. It shall not be necessary to have said certificate recorded except upon the books of said corporation, and the same shall be transferrable by a simple assignment upon the back thereof, to be recorded upon the books of said corporation, which shall vest the title in the assignee as fully as the assignor had and held the same and the said lots shall not be liable to execution in any case whatever.

SEC. 4. The said corporation shall have full power to pass any and all by-laws not inconsistent with the laws of this state, which shall be necessary to carry into full effect the objects of the same.

SEC. 4. This act to be in force from and after its passage.

### CHAPTER CCCCLXXXVII.

An Act for the relief of certain persons therein named.

[APPROVED FEBRUARY 16, 1848.]

section thirty-four, in township five, of range twelve, and the south half of the south-east quarter of section twenty-two, in township five, of range twelve, of lands sold at Jeffersonville, all situate in Switzerland county, and State of Indiana; That said John Wilkie caused valuable improvements to be made thereon, and greatly enhanced the value of said lands; that said John Wilkie in January 1846, by duly authenticated power of attorney at Edinburg, in Scotland, constituted William Wilkie, of Boone county, Kentucky, and Alexander Allen, of Switzerland county, Indiana, his attorneys in fact, jointly or separately, to sell and convey said tract of land, or any part thereof, to give bonds, execute and deliver deeds, receive mortgages, &c.; And WHEREAS, The said William Wilkie as such attorney in fact, has sold portions of said land to the following persons, to wit: James Ferguson, John Aushuty, William M. Weaver, John A. Weaver, and James M. Weaver, who are citizens of the United States and residents of Switzerland county, Indiana, and executed and delivered deeds and bonds to said purchasers, and received part payment of the purchasers, and received mortgages to secure the payment of the residue, the said William Wilkie and the said purchasers being under the erroneous impression that he had a right to sell and convey; And WHEREAS, Also, It appears doubtful whether the said power is full and ample [to] authorize the sale of eighty acres that was sold by said attorney to James Ferguson, for which said attorney gave to said James Ferguson a bond for a title; for remedy whereof,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the acts and doings of the said William Wilkie as such attorney in fact, so far as said power of attorney authorizes said acts and doings, and all deeds, mortgages, and bonds made and executed by authority of said power of attorney, or in pursuance thereof, be and they are hereby declared to be as valid and effectual, to all intents and purposes, as if the said John Wilkie had been a citizen of the United States at the time of executing said power of attorney.

SEC. 2. *And be it further enacted,* That the said John Wilkie, his heirs or legal representatives, are hereby authorized and empowered at any time hereafter, by deed or otherwise, to convey to said James Ferguson, his heirs, or assigns, the said south half of the south east quarter of section number twenty-two intownship five, of range twelve east, in the Jeffersonville land district, situated in the county of Switzerland, which deed or assurance when made, executed, and delivered, shall have the same force and validity as though the said John Wilkie were a citizen of the United States at the time of the execution of such deed, assurance, or assurances.

SEC. 3. This act to be in force from and after its passage.

## CHAPTER CCCCLXXXVIII.

An Act to vacate a road in Laporte county, and for the relief of O. P. Ludlow.

[APPROVED FEBRUARY 7, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That so much of the road heretofore laid out across sections thirty-two and thirty-three, of township thirty-seven north, of range three west, in Laporte county, as is located on the land of O. P. Ludlow, be, and the same is hereby, vacated.

SEC. 2. This act shall be a public act, and shall be in force from and after its passage.

## CHAPTER CCCCLXXXIX.

An Act to revive an act entitled "An act to incorporate the Lafayette and Danville Railroad Company," approved February 5, 1836.

[APPROVED FEBRUARY 14, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the act entitled "An act to incorporate the Lafayette and Danville Railroad Company," approved February 5, 1836, be, and the same is hereby, revived and continued in full force.

SEC. 2. That Henry L. Ellsworth and Elias L. Beard, of Tippecanoe county, be, and they are hereby, substituted as directors of said company, in the room of Nathan Jackson and William Newell, deceased, who were named in the first section of said act.

SEC. 3. That the time for commencing the construction of said road is hereby extended for the term of three years from the date hereof, and the time for the completion of the same is hereby extended to the term of ten years from the date hereof.

SEC. 4. This act to be in force from and after its passage.

## CHAPTER CCCCXC.

An Act for the relief of certain persons therein named in the county of Monros.

[APPROVED FEBRUARY 16, 1848.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That John M. Berry, commissioner of the reserved township of seminary lands in Monroe county, in said state, or his successors in office, be, and he is hereby, authorized and required to hear any proof which Samuel Mathers or John Mathers may present to him touching a deficit in the quantity of land sold to them or to either of them by the State of Indiana in the reserved township aforesaid by and through the commissioner; and upon satisfactory proof being made to him by them or either of them as to a deficit in the quantity of land so as aforesaid sold to them or either of them, that it shall be his duty to compute the deficit in each respective tract of land so as aforesaid sold by the price per acre for which said tracts were respectively sold, and ascertain the amount for which they or either of them may be overcharged, and upon ascertaining the same, he shall compute their interest thereon from the day of sale up to the date of hearing the proof adduced by them or either of them touching such deficit; and upon his being fully satisfied of said deficit or deficits, it shall be his duty to allow and credit them or either of them for the amount of money upon said deficit, computing the interest upon the principal on said deficit or deficits respectively up to the date of hearing said proof; and it shall be his duty to allow to each one of them a credit for said amounts thus found to be overcharged upon the residue of the purchase money respectively, due by them or either of them upon the land by them purchased of the commissioner of said township at the time of said sale of said lands to them. In case the amount found to be due to them or either of them shall exceed the amount due from them or either of them to the said state for the land so proven deficit in quantity, and which were purchased by them, the said commissioner shall pay the excess to them in any money in his hands accruing from any lands sold in said reserved township; and for the purpose of enabling said commissioner to hear and determine upon said proof, he shall have full power and authority to administer any oath to any witness which may appear before him for said purpose.

SEC. 2. It shall be the duty of said commissioner to make out and transmit to the treasurer of state a certified copy of his proceedings by virtue of this act within thirty days thereof, and such proceedings shall be sufficient to entitle him to a credit for said sum on said treasurer's books, and for said services the said commissioner shall receive one dollar for each case and the per centum allowed him by the existing laws on all moneys collected by him.

SEC. 3. This act to take effect and be in force from and after its passage.

STATE OF INDIANA, SECRETARY'S OFFICE, SS.

I, JOHN H. THOMPSON, Secretary of State for the State aforesaid, certify that I have compared the foregoing with the enrolled acts and joint resolutions from which they were taken, now on file in my office, and have found them correctly printed. A few words designated [thus,] were inserted by me, in order to aid the sense.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the State, at the city of Indianapolis, the first day of April, A. D. 1848.

[SEAL.] JOHN H. THOMPSON,

Secretary of State.

## INDEX.

INDEX.	
<b>ACT:</b>	
To repeal an act therein named, -	189
To vacate certain streets and alleys therein named, -	192
To repeal an act vacating part of the town of Milford in Kosciusko county, -	212
To vacate a certain state road therein named, -	217
To repeal an act therein named, -	222
To authorize the sale of certain town lots therein named, -	224
To repeal an act therein named, -	261
To repeal a certain act therein named, so far as the county of Dearborn is concerned, -	269
To amend sec. 4, article 1, chapter 7, of the Revised Statutes of 1843, -	277
To confirm to Mary Williams the sale of a lot in Pittsburgh, -	308
To extend the provisions of an act therein named to the county of Wells, -	309
For the benefit of Michael Riley, -	341
To extend the provisions of a certain act therein named to the counties of Jay and Blackford, -	352
In relation to the town of Carrollton in Carroll county, -	459
To authorize John Johnson of Owen county to correct a mistake in a certain deed, -	34
An act relating to the Shelbyville and Edinburgh Rail Road, amended, -	462
An act relative to the counties of Carroll and Clinton, -	495
An act to define the time when a certain act herein named shall take effect and be in force, -	495
An act relative to the estate of John Sims, deceased, -	575

## ACT—Continued :

An act to amend an act therein named, -	604
In relation to a road in Washington county, -	632
To vacate a road in Laporte county, -	635
In relation to the Lafayette and Danville Railroad Company, -	635
To relieve certain persons therein named, -	636

## AUDITOR :

Of Hendricks county to sell certain lands, -	207
Of Morgan county to assist in making a deed to William Berry for certain school land in said county, -	244
Of Sullivan county to unite with the treasurer thereof in making set-offs in certain cases, -	252
Of St. Joseph county to make a deed in a certain case, -	253
Of Franklin county, to sell certain school lands, -	265
Of Putnam county, his salary regulated, -	170
Of Miami county, and the commissioners to make a deed to Jacob Brown, -	191
Of Hendricks county to sell certain lands, -	201
Of Vigo county to sell certain tracts of land, -	344
Of Grant county one-half per centum on all school funds, -	505
Of Miami, the act fixing his salary repealed, -	629

## ASSESSORS :

For the election of, in the counties therein named, -	57
To provide for the election of in Jennings county, &c.,	226

## ADMINISTRATOR :

Mahala Proffit to act as such of her deceased husband's estate, and as guardian to her daughter, -	351
Aaron Houghton as such to compound a certain claim, -	386

## ALLOWANCE :

To adjutant and quartermaster general for 1847, -	293
To William Robinson, of Franklin county, for certain services, -	296
Additional, to secretary of state, -	297

## ALLOWANCE—Continued :

To witnesses in the case of the branch of the state bank at Terre Haute, -	304
To S. E. Warder and George Green, -	399

## AGENT OF STATE :

To settle with John Burk for house rent, -	389
--	-----

## B.

## BANK, STATE

To repeal part of an act in relation to her laying out into out-lots certain lands adjoining the town of South Bend, -	209
--	-----

## BAILIFFS :

To define the law in relation to, in Hancock county, -	496
--	-----

## BRIDGE :

To revive an act authorizing certain individuals to build, across the Kankakee river at Sherwood ferry, in Porter county, -	305
Libbeus Frisbee authorized to build, across Blue river	346
To authorize the erection of, in Martin county, -	552
An act authorizing Joseph Quinn and James Nowell to erect toll bridges explained and amended, -	605

## BENEFIT :

Of Michael Riley, -	341
Of the recorder of Monroe county, -	468
Of Lawrenceburgh township in Dearborn county, -	478
Of the reserved township of seminary lands in Monroe county, -	607
54*	

## COMPANY:

Authorized to construct the Aurora and Laughery Turnpike, -	229
To construct a turnpike road from Moore's Hill to Aurora in Dearborn county, -	233
For the benefit of the Jeffersonville and New Albany Railroad, -	297
An act authorizing, to construct a turnpike road from Cambridge City to Muncietown amended, -	320
For the benefit of New Albany and Salem Railroad, -	456

## CANAL, W. &amp; E.

Making a certain side-cut part of said canal, -	338
---	-----

## CHILDREN:

An act in relation to taking a list thereof in Posey county, -	167
--	-----

## CLAIMS:

Giving further time to the widow, heirs, and creditors of David Browning, deceased, to file, against his estate, -	307
--	-----

## COMMISSIONERS:

To make compensation to supervisors of roads in Delaware county for returns, -	30
In relation to the duty of, in Madison county, -	33
To order an election for an additional justice in Centre township in Grant county, -	36
To change the mode of electing, in Pike county, -	62
To establish an additional place of holding elections in Medina township, in Warren County, -	160
To abolish the office of school, in Floyd county, -	163
To employ a physician in Daviess county, &c., -	165

COMMISSIONERS—*Continued*:

School, to make a deed to Jacob Brown, in Miami county, -	191
To provide for the election of, to restore the records in Miami county, -	242
School, of Morgan county to make a deed to William Berry for school land, &c., -	244
To amend an act authorizing, to make partition of the real estate of Stephen S. Collett, late of Vermillion county, -	254
To extend the time of holding court thereof, in Boone county, -	261
To lease the Seminary in the county of Wayne, -	280
To make allowances to Prosecuting Attorneys in the twelfth judicial circuit, -	322
Of Vermillion county, to establish an additional place of voting in said county, -	347
Of Elkhart county, to direct the sale of certain school lands, -	348
Of Marion county, required to give bond, -	387
To employ a physician for the paupers in Cass Co., -	461
Restricted in levying a tax in Stuben county, -	499
Of Jay county, authorized to borrow money, -	502
Of Lagrange county, to increase salary of Probate Judge, -	504
Of Tippecanoe county, to pay for erection of bridge, -	504

## COUNTY BUSINESS:

Board doing, in the county of Orange to dispense with a road tax, -	61
The power of the board of the county of Blackford increased, -	161
The board doing, in Dubois county to levy or dispense with a road tax in its discretion, -	356

## COURT, PROBATE:

Relative to judges of, in the county of Porter, -	29
Additional compensation granted to judges of, in the counties of St. Joseph, Lagrange, and Bartholomew, -	70
Of Dearborn, to make certain orders and decrees, -	72
Of Marion county, to order deeds to be made for certain lots in Laporte, Laporte county, -	276
Certain powers granted to, in Dearborn county, -	497

## CLERK :

Of Delaware county, extra fees disallowed, -	32
Of Sullivan county, to offer and sell certain lots and lands in said county, -	258
Of the Carroll circuit court, to sell certain real estate, -	401

## CHARTER :

To the citizens of town of Evansville, amended, -	58
To the citizens of Rising Sun, -	77
Of the citizens of the town of Aurora, in Dearborn county, -	136
Relative to that of the city of Indianapolis, -	171
Of the Indiana Medical College, amended, -	266
Of the city of Indianapolis, amended, -	307
Of Lawrenceburgh, amended, &c., -	313
Of the city of New Albany, amended, -	410
Of the Madison and Napoleon Turnpike Company, amended, -	413
Of the Milford and Columbus Railroad Company, -	601

## CRANBERRIES :

To encourage the growth of, in the county of Allen, and for the protection of cranberry marshes, -	580
--	-----

## COURT, COMMISSIONERS :

To change the time of holding, in Jefferson county, -	512
---	-----

## COMMISSIONERS, COUNTY :

To assess an additional tax in Jay county, -	577
Of Allen county, to sell certain real estate, -	609
Of Adams county, to employ a prosecuting attorney, -	619

## COMMISSIONER OF RESERVED TOWNSHIP :

Compensation to, for certain services named, -	592
--	-----

## D.

## DAM, MILL :

To authorize Thomas Hamilton to build, across the St. Joseph river in Allen county, -	600
To authorize Samuel S. Millikin to build, across the Salamonia river in Wells county, -	46
To authorize Peter Wise and others to build, across White river in Hamilton county, -	209
To authorize John Webster to build, across Little St. Joseph river in De Kalb county, -	213
To authorize Nottingham Mercer to build, across the Wabash river in Adams county, -	213
To authorize John Secrest to build, across Mississinewa river in Grant county, -	249
To authorize A. & A. J. Helton to raise theirs, -	305
To authorize Peter King to build, across Mississinewa river, in Wabash county, -	393
To authorize Thomas Ruble to build, across Mississinewa river, -	458

## DEED :

Mistake therein to be corrected by John Johnson of Owen county, -	34
Confirmed to the Methodist Episcopal Church of Cullis, Sullivan county, -	262
Avery Allen of Posey county, to make in a certain case, -	334

## DRAINING :

Swamps and wet land, Vanderburg, Cass, Pulaski, and Fulton counties, -	482
--	-----

## DELINQUENT LANDS AND TOWN LOTS :

The time for returning for non-payment of taxes postponed in the county of Grant, -	193
Sale postponed in Adams county, -	398

## DISTRIBUTION:

Of the laws and journals in Bartholomew county, - 582

## ELECTIONS:

The commissioners of the county of Grant to order, for an additional justice of the peace in Center township, -	36
Relative to, in Jackson county, -	56
Mode of change, as to county commissioners, in the county of Pike, -	62
"An act to authorize the people of Fayette and other counties therein named to elect their seminary trustees," amended, -	136
To establish an additional place of holding, in Medina township in Warren county, -	160
Of assessors and collectors in Jennings county, -	226
Of commissioners to restore records in Miami county	242
Additional precincts of, authorized in Decatur county	292
An additional place of holding, in Hamilton township, Jackson county, authorized, -	345
An additional place of voting, in Hett township in Vermillion county, -	347

## ESTATE, REAL:

Authorizing William Hamer to convey certain, -	219
Authorizing Sarah Shannon to sell certain, -	251
To authorize John S. Woodard to convey certain, -	343

## FEES:

To reduce, for recording deeds in Delaware county, -	244
Of the clerk of Sullivan county, -	351

## FERRY:

Horse boat, across the Wabash river at Williamsport, - 629

## HORSES AND JACKS:

To repeal an act in relation to, - 74

## HORSES:

To improve the breed of, in Miami county, - 296

## INCORPORATION:

Of the town of Winchester in Randolph county, -	4
Of the town of Peru, -	10
Of the South Bend Woolen and Cotton Manufacturing Company, -	22
Of the Madison and Brownstown Turnpike Road Company, by way of Kent, &c. -	40
Of the Brownstown and Scipio Railroad Company, -	46
Of the Connersville Hotel Company, -	60
Of the College Corner and Liberty Turnpike Company, and the Liberty and Abington Turnpike Company, amended, -	62
Of Rising Sun, -	77
Of the city of Madison, -	89
Of New London in Howard county, -	123
Of Kosciusko, Elkhart, and Miami Railroad Company	124
Of the Laporte Female Seminary, -	129
Of the Attica and Warren county Bridge Company, -	132
Of the town of Aurora in Dearborn county, -	136
Of the Botanic Medical Society in Decatur county, -	162
Of the Taylor Cotton Mills, -	171
Of the Cannelton Paper Mill, -	173

## INCORPORATION—Continued;

Of the Ward Cotton Mill,	- 174
Of the Indiana Cotton Mills,	- 174
Of the Cannelton Cotton Mills,	- 175
Of the Cannelton Foundry,	- 176
Of the Indianapolis and Bellefontaine Railroad Company,	- 176
Of the Perry Cotton Mill,	- 179
Of the Cannelton Glass Manufacturing Company,	- 179
Of the Princeton Female Academy,	- 194
Of the Centreville and Abington Turnpike Company	196
Of the Lexington and Brownstown Turnpike Company,	- 199
Of the Liberty and Brownsville Turnpike Company,	205
Of the German Evangelical St. John's Church in Dearborn county,	- 215
Of the Clay Cotton Mills,	- 220
Of the Aurora and Laughery Turnpike Company,	- 229
Of the Moore's Hill and Aurora Turnpike Company,	- 233
Of the Jasper county Iroquois Navigation and Manufacturing Company,	- 237
Of the town of Muncie in Delaware county revived,	243
Of Madison Hotel Company,	- 245
Of the railroad from Martinsville in Morgan county, to Franklin in Johnson county, amended,	- 254
Of the Lawrenceburgh and Rushville Turnpike Company, amended,	- 256
Of the Covington Drawbridge Company, amended,	- 257
Of the Celebration Spring Steam Company,	- 262
Of the Harrison, New Trenton, Rochester, and Brookville Turnpike Company,	- 282
Of the town of Clinton,	- 285
Of the Clinton Iron Manufacturing Company,	- 298
Of the town of Greenfield amended,	- 303
Of the Grand Lodge of the Oriental Evanic Order of Brothers,	- 310
Of the town of Belleville, Hendricks county, revived,	318
Of the lines of Morse's Electro-Magnetic Telegraph in Indiana, and for other purposes,	- 322
Of the Attica Hydrant Company,	- 326
Of the Mechanics and Working Men's Institute, of Mount Vernon, Posey county,	- 337
Of Eagle Village, in Boone county,	- 339
Of the English and German Evangelical Lutheran St. Paul's church, in Dearborn county,	- 339
Of the Peru, Rochester, Plymouth and South Bend Rail Road Company,	- 359

## INCORPORATION—Continued:

Of the town of Washington, Wayne county,	- 361
Of the Cambridge and Milton Turnpike Company,	- 364
Of the Boonville and Ohio River Rail Road Company,	- 368
Of the Anderson River Bridge Company,	- 376
Of the town of New Columbus, in Madison county,	378
Of the Vermillion Academy,	- 390
Of the Madison, Lexington and Brownstown Turnpike Company, amended,	- 392
Of the Madison Female College,	- 403
Of the Peru and Indianapolis Rail Road Company, amended,	- 411
Of the Madison and Napoleon Turnpike Company, amended,	- 413
Of the Franklin Institute of Richmond University,	414
Of the Brookville and Cincinnati Turnpike Company, amended,	- 415
Of the Richmond University,	- 417
Of the French Lick Steam Mill Company,	- 420
Of the Fairfield Hydraulic Company,	- 423
Of the Eel River Manufacturing Company, at Logansport,	- 424
Of the Monticello Hydraulic Company,	- 427
Of the Rushville and Lawrenceburgh Rail Road Company,	- 432
Of the Crawfordsville and Indianapolis Rail Road Company,	- 438
Of the Greenbush Cemetery Association of Lafayette,	444
Of the Madison and Brownstown Turnpike Company,	- 448
Of the Portland and Ohio Rail Road Company,	- 456
Of the Ripley County Medical Society,	- 462
Of the Knightstown and Shelbyville Rail Road Company, amended,	- 464
Of the Junction Rail Road Company,	- 469
Of the Ohio and Indianapolis Rail Road Company, amended,	- 479
Of the Lafayette and Danville Rail Road Company, revived,	- 482
Of the Milton and Waterloo Turnpike Company,	- 484
Of the town of Huntington,	- 487
Supplementary to the Crawfordsville and Indianapolis Rail Road Company,	- 494
Of the Rushville and Lawrenceburgh Rail Road Company, amended,	- 498

## INCORPORATION—Continued :

Of the Council Grove Minute Men, -	273
Of Greencastle, certain lots declared out of, -	292
Of the City of Logansport, amended and revived, -	480
Of the Peru and Wabash Free Bridge Company, -	324
Of the Lafayette, Monticello, Winnemac and Michigan City Rail Road Company, -	349
Of the Lafayette Bridge Company, amended, -	408
Of the Junction Rail Road Company, amended, -	496
Of the Lafayette Insurance Company, amended, -	500
Of the Perrysville and Danville Rail Road Company, &c., amended and revived, -	506
Of the Indiana Iron Manufacturing Company, -	507
Of the Crawfordsville, Covington and Illinois Rail Road Company, revived and amended, -	510
Of the New Castle and Knightstown Rail Road Company, -	518
Of the New Castle and Richmond Rail Road Company, -	521
Of the Union Literary Institute, -	525
Of the Huntington, Whitley and Kosciusko Turnpike Company, -	527
Of the Terre Haute and Richmond Rail Road Company, amended, -	530
Of the City of Jeffersonville, amended, -	531
Of the Tippecanoe Guards, in Tippecanoe county, -	533
Of the Buffalo and Mississippi Rail Road Company, amended, -	535
Of Richmond and Hagerstown Rail Road Company, -	543
Of Steuben Medical Society, of Steuben county, -	551
Of the Crawfordsville and Wabash Rail Road Company, revived and amended, -	554
Of Mooresville Branch Rail Road Company, -	556
Of Fairview Academy, in Rush county, -	562
Of the Fort Wayne and Goshen Turnpike Company, -	564
Of Lake Michigan, Logansport, and Ohio River Rail Road Company, -	570
Of the Chamberlain Mills, -	573
Of the town of Greensburg, in Decatur county, repealed. -	575
Of the Ohio and Mississippi Telegraph Company, -	578
Of the Tippecanoe Bridge Company, -	582
Of the White Water Valley Canal Company, amended, -	587
Of the Harrison Township and Abington Turnpike Company, -	591
Of the Cannelton Steam Mill and Manufacturing Company, -	593

## INCORPORATION—Continued :

Of the Mount Vernon and New Harmony Rail Road Company, -	593
Of the Brookville and Connersville Turnpike Company, amended, -	599
Of the Wabash and Greenville Rail Road Company, -	605
Of the town of Patriot, in Switzerland county, -	611
Of the Ohio and Mississippi Rail Road Company, -	619

## IMPROVEMENT.

Of roads in Switzerland county, -	24
Of the town of Williamsport, -	258
Of Tanner's creek, in Dearborn county, -	563

## JURORS:

For selecting of, in the county of Delaware, -	29
For the selection of, in the county of Warren, -	55
Fees of, before justices' courts, in the county of Delaware, -	123
In relation to the pay of, in certain counties therein named, -	207
An act to restrict, in Franklin county repealed, -	389
Mode of selecting, in the county of Jay, -	411
To provide for summoning, in Johnson county, -	512

## JUSTICES OF THE PEACE;

To extend the jurisdiction of, in the counties of Lake and Porter, -	56
To declare Scott Noel, the successor in office of Robert M. Gilkeson, -	267
Declaring G. W. Bowen, successor of William Dehority, -	350
To correct a mistake in the commission of, in Hanover, Shelby county, -	608

## CHANCERY:

Hiram S. Brady authorized to file his bill in, - 420

## L

## LANDS:

The appraisement of, in Monroe and Irvin townships, in Howard county, - 28  
To be sold by clerk of Sullivan county, - 258

## LEGALIZE:

The acts of the President and Trustees of the town of Rising Sun, in Ohio county - 32  
The assignment of a certificate for certain school lands in Morgan county - 208  
The assignment of a certificate for certain school lands in Morgan county, and for other purposes, - 211  
The acts of Michael Shiel, a justice, of Hamilton county, - 249  
The vacation of certain streets, &c., in South Bend, - 252  
The act of the board of commissioners of Madison county, - 306  
The acts of the probate judge of Lagrange county, 359  
The sale of real estate by Peter F. Navare, junior, 384  
The sale of certain lands, - 458  
The survey of the city of Fort Wayne, - 505  
The acts of the auditor of Steuben county, for 1847, 553  
The incorporation of Mount Hope Cemetery, near Peru, &c., - 633

## LOTS, TOWN

To authorize the sale of a certain lot therein named, 224  
To confirm the sale of, in Pittsburgh, to Mary Williams, - 308

## LIBRARY, COUNTY

To provide for, in the county of Pulaski, - 268  
To authorize the sale of, in Decatur county, - 360

## LEVEE:

To authorize the building of, in Vigo county, - 316

## LIQUORS, SPIRITUOUS

Regulating the sale of, in the town of Centreville, - 279  
To regulate the sale of, in the county of Floyd, - 281  
To regulate the sale of, in Henry township, Henry county, - 409  
To grant license to retail, in the counties of Gibson and Dubois, - 476  
To prohibit the sale of, in the town of Rushville, - 543  
To prohibit the sale of, by a less quantity than ten gallons, in Wayne, Washington, and Franklin townships, in Wayne county, - 586

## M

## MEANING,

Of an act to amend an act amendatory to an act incorporating Michigan City, - 250

## MILL DAM.

To authorize Isaac Hitner and others to build across Salamonia river, - 473

55\*

## NAVIGATION.

The act to improve that of Lost river repealed so far as relates to Martin county, - 161

## NAMES CHANGED.

From Ellen Narcissa Brown, to Ellen Maria Graham, 167  
 From Malissa Davis, to Malissa Emeline Miller, - 212  
 Of Ebenezer Barker Twitchell, - 190  
 From Bezaleel Thomas to Basil Thomas, - 260  
 From Charlotte Fox Dubois to Charlotte Fox Dubois Ladd, - 268  
 From Andersontown to Anderson, Madison county, - 300  
 Of the town of Alton, in Crawford county, - 304  
 From William Jackson to that of William Jackson Morgan, - 348  
 Of Springfield, in Whitley county, to that of Cherry Valley, - 394  
 Of Lewis Myers to Lewis Myers Douglass, - 398  
 Of the county seat of Martin county, - 460  
 Of Granville, in Tippecanoe county, - 467  
 Of Springfield, in Wabash county, - 606  
 Of the Owenville Public House, in Gibson county, - 607

## PROBATE COURT.

Relative to the judges thereof, in Porter county, - 29

## PRINT.

Declaring a misprint in the 1st Sec. of a law of 1847, in relation to the surplus revenue agent of Perry county, - 221  
 Mis, corrected in relation to election of trustees for the corporation of the town of Greensborough, in Henry county, - 475

## PARTITION.

Commissioners of Vermillion county to make of the real estate of Stephen Collet, - 254

## PROVISIONS.

Of an act therein named, extended to the county of Wells, - 309

## REVISED STATUTES, OF 1843.

To procure additional copies thereof, for the county of Kosciusko, - 358  
 To give additional copies to Randolph county, - 385

## ROADS.

To improve in the county of Switzerland, - 24  
 To locate in in the counties of Delaware, Madison, and Grant, - 25  
 To locate in the counties of Allen and Wells, - 26  
 To locate in the counties of Allen and De Kalb, - 27  
 To change in the counties of Huntington and Wells, - 36  
 To locate in the counties of Dubois and Martin, re- vived, - 38  
 To establish on a portion of the dividing line of the counties of De Kalb and Steuben, amended, - 89  
 To change a certain state, in the county of St. Joseph, 164  
 To locate in Posey county, - 169  
 In relation to, in De Kalb county, - 210  
 To change in Hamilton county, - 211  
 To locate a state, in counties of St. Joseph and La- porte, - 214  
 To locate in the counties of White and Carroll, - 215  
 To locate in the county of Posey, - 216  
 To vacate a certain state, therein named, - 217  
 To re-locate part of from Harrison to Indianapolis, - 218  
 To construct rail from Martinsville to Point Com- merce, in Green county, - 222  
 To locate in Madison and Hamilton counties, - 225  
 To revise laws relating to in Lake and Porter counties, 245  
 In relation to certain state, in the county of Daviess, - 267

## ROADS—Continued.

To make an alteration in, Warrick county,	269
To change a certain, in the county of Jackson,	270
To locate in the counties of Clay and Owen,	272
To locate in the counties of Franklin and Ripley,	274
To vacate part of the Indianapolis and Centreville state road,	275
To locate in the county of Delaware,	277
To locate in the counties of Clinton and Howard,	278
To locate in the counties of Allen and De Kalb,	279
For the benefit of Jeffersonville and New Albany Railroad Company,	297
To establish free turnpike in the counties of Allen, Whitley, Kosciusko, and Marshall,	299
To regulate the width of, in Marion county,	301
To locate in Fountain county,	310
To locate in Clay and Parke counties,	315
To change a part of in Delaware county,	316
To change the location of in Hendricks county,	318
To locate and re locate in the county of Miami,	319
To construct a turnpike from Cambridge City to Muncietown, amended,	320
To locate in the counties of Fulton, Marshall, Pulaski, and Stark,	333
To establish in Hancock and to vacate that part from Charlottesville, in said county, to where it intersects the Knightstown, &c., &c.	335
To change from Bowling Green, in Clay county, to Rockville, in Parke county,	337
To estsblish on a part of the county line dividing the counties of Wayne and Randolph,	340
To survey and record in Elkhart county,	353
To define the width of in Clinton county,	386
To authorize the location of on the county line of Porter and Lake counties,	388
To vacate a portion of, therein named,	395
The width thereof, in the counties of Vanderburgh and Posey,	396
To vacate part of, in the county of St. Joseph,	404
To vacate in Laporte county, and for the relief of O. P. Ludlow,	457
To locate in Posey and Vanderburgh counties,	463
To establish a certain state, therein named,	498
Arm to the Knightstown and Shelbyville railroad, Ira Bailey to build	399
To improve the Huntington and Goshen	461
Free turnpike in Steuben county,	513

## ROADS—Continued:

For the continuance of the Madison and Indianapolis rail road to Lafayette, amended,	517
To locate in the counties of Adams, Allen, and Jay,	589
To locate from Logansport in Cass county to Winamac in Pulaski county,	590
To locate in the counties of Howard, Miami and Wabash,	610
To locate and establish from Bedford, in Lawrence county, by Clear Spring in Jackson county, to Columbus, in Bartholomew county,	630
To locate from Heltonsville, in Lawrence county, through Brown and Jackson counties, to Columbus,	631

## RELIEF.

Of the inhabitants of district No. 6, township 22 North, range 2 East, in the counties of Orange and Washington, repealed,	494
Of Thomas M. Gibson and others,	35
Of Abraham Perkins, late collector of Daviess county	37
Of Collins Adams of St. Joseph county,	52
Of the executors of the will of Samuel Glass, deceased and to secure the title to purchasers of lands sold by said executors,	53
Of the widow and heirs of Benjamin Inman, late of Greene county,	54
Of the surplus revenue fund belonging to Decatur co.	71
Of James Hardin of Warrick county,	135
Of Mary M. Goodrich,	190
Of Simon and John Bottorff,	192
Of Charity Forden of Daviess county	221
Of Joseph Pratt,	248
Of persons who have made improvements on school sections in the Miami Reserve,	294
Of William A. Richardson and others,	299
Of Eleanor Leas,	300
Of Lucas Barbour, John Elder, and Edwin J. Peck,	312
Of Silas Overman of Grant county,	342
Of the purchasers of school lands in Carroll and Clinton counties,	354
Of Syria Aldrich,	355
Of Dempsey Linton, of Randolph county,	356
Of Joseph I. Stretcher, and Robert N. Allen,	385
Of James Van Blaricum,	387
Of the heirs of Louisa Jane Cassatt,	475
Of John Boone,	477

## RELIEF—Continued:

Of Elias Murray, amended,	497
Of school commissioner of Delaware county,	500
Of the sureties of James H. Kintner, late school commissioner of Cass county,	501
Of purchasers of saline lands in Orange county, amended,	503
Of Joseph E. Moore,	507
Of the widow of the late William H. May, deceased,	508
Of the sureties of William Johnson,	509
Of the members of the Wabash Fire Company,	513
Of Jesse Beard and Elias Beard,	514
Of certain persons in the county of Monroe,	516
Of certain persons therein named,	549
Of John Kearney, and to authorize him to sell real estate,	550
Of A. Bird,	601
Of Margaret Wade,	602
Of John S. Watts,	603
Of certain persons therein named,	633
Of the heirs of John Widney,	391
Of Michael Hedakin and others,	393
Of the Miami Indians, repealed,	394
Of the heirs of Anthony Shultz, deceased,	395
Of the city of Lawrenceburgh,	397
Of Elizabeth Jones of Gibson county,	405
Of the securities of John Plasters, of Miami county,	407
Of Zachariah Collins,	407
Of John R. Jones and John D. Ferguson,	413
Of Patrick McGinley,	465
Of A. G. Selman,	468

## REVENUE.

An act for the collection of, in the county of Lake, for 1847,	121
Amendatory of an act giving further time for the settlement of, in Delaware county,	219
Giving further time for the settlement of in Delaware county,	406

## REPEAL.

The 2d section of an act to vacate certain alleys in Bloomington, repealed,	400
---	-----

## REPEAL—Continued:

The 4th section of the 47th chapter Revised Statutes as to Elkhart county,	351
An act relative to township business in Clay county,	298
An act vacating part of the town of Milford in Kosciusko county,	212
An act relative to supervisors in certain counties,	217
An act therein named,	222
An act therein named,	261
An act, so far as the county of Dearborn is concerned	269
An act exempting improvements on real estate from taxation in the counties of Kosciusko and Miami,	294

## RECORDS, COUNTY.

To provide for the election of a commissioner to restore in Miami county,	242
Of the town of Huntington, amended,	416
In relation to, of Lagrange county,	474

## SHERIFF:

Of Delaware county, extra fees of, disallowed,	32
Of Dearborn county, to use the jail of Wilmington, &c.,	248

## SOCIETY:

For the benefit of the Union Literary,	400
--	-----

## SECRETARY OF STATE:

To send additional laws to Allen county,	412
--	-----

## SCHOOL LANDS:

In relation to funds of, in the county of Daviess,	34
--	----

SCHOOL LANDS—*Continued.*

Explanatory of an act to secure to Ohio county a share of the common school and surplus revenue fund,	70
The time of payment for certain lands of, extended in Miami county,	75
Providing for the sale of certain lands of, in the county of Dearborn, belonging to township 9, range 3 west, in Franklin county.	77
Authorizing the sale of certain lands thereof, in Franklin county,	77
Authorizing the trustees of district No. 5, in township 7 north, of range 3 east, in St. Joseph county, to levy a tax to finish school house,	88
To abolish the office of school commissioner in the county of Floyd, and for other purposes,	122
New district formed from districts Nos. 1 and 4, in congressional township No. 2 north, of range 2 east,	163
Office of commissioner of, abolished in St. Joseph county, and duties transferred to treasurer,	208
To authorize the voters of certain townships to sell their lands,	256
To form one district out of nine sections, in township 14 north, of range 6 east,	274
Commissioner of, in Marion county to give bond,	350
To authorize the sale of the lands of, in Jay county,	387
To authorize the sale of section in township 25 north, range 2 west, in Carroll county,	405
To abolish the office of commissioner of, in Putnam county,	459
In relation to certain lands of, in Floyd county,	460
To authorize Roderick M. Siler to relinquish certain lands of,	533
To sell section 16, in township 28 north, range 8 east, in Huntington county,	555
	585

## SUPERVISORS:

To provide for electing by districts in the county of Miami,	54
In Scott county to make their returns to the board doing county business on the first Monday in March, &c.,	76
An act to repeal an act more effectually to enable to open and keep in repair public highways, amended,	193

SUPERVISORS—*Continued.*

Relating to, in the counties of Decatur, Jefferson and Spencer,	217
To work a certain road in Ohio county,	295
The time extended for them to work their roads in Spencer county,	511

## STONE:

To authorize Albert A. Siddall to sell certain, in Madison county,	259
--	-----

## SEMINARY, COUNTY:

An act in relation to the fund of, in Tippecanoe county,	401
To sell, in Lagrange county,	467

## STATUTES, REVISED:

An act to repeal the act entitled "An act to amend the 4th article of the 16th chapter of the Revised Statutes of 1843," amended so far as the same relates to the counties of Washington and Jackson,	302
A part of the 90th section, 34th article, of the 16th chapter of the Revised Statutes of 1843, repealed, so far as the same relates to Shelby county,	313
The 76th section of the 15th chapter of the Revised Statutes amended,	355
To extend the provisions of section 16 of the Revised Statutes of 1843 to the county of Lagrange,	604

## SCHOOL LANDS:

The sale of section, belonging to congressional township 21, R. 5 W., in Tippecanoe county,	603
To better enable the citizens of congressional township No. 20 N., of R. 5 E., in the county of Hamilton, to sell,	630

## TREASURER, COUNTY:

Fees of, in Owen county,	31
An act defining the duties of, repealed,	255
Duties of, defined, in Shelby county,	358

## TREASURER OF STATE:

To pay Justus C. Alvord, Homer King, and Archibald T. Frink certain moneys,	314
---	-----

## TAX:

For levying a street, on the inhabitants of the town of Marion and its additions,	38
To compel speculators to pay equal to settlers, amended,	75
To assess and collect a road tax upon lands and town lots in Madison county,	87
To finish school house in St. Joseph county, (See school L.)	122
Relating to road tax in Perry county,	135
In relation to duplicates of, in Jefferson county, for the year 1847,	194
Road, in the county of Howard,	250
Lots to be sold for delinquent taxes in Brownstown,	260
To extend the time of collecting, in Dearborn county,	392
To authorize an increase of, in Laporte county,	469
Levying a road, in the township of Union in St. Joseph county,	474
To restrict the county commissioners in levying a tax in Steuben county,	499
Relative to the collection of, in Bartholomew county,	589

## TRUSTEES:

Of school district No. 1, in town 37 north, range 5 east, in Elkhart county to raise an additional tax,	45
Of school district, (See school, township.)	122
Of seminary in Fayette and other counties. (See election.)	136
Giving additional powers to the president and trustees of the town of Lafayette, in Tippecanoe county,	165

## TOWNSHIP BUSINESS:

To regulate the mode of doing, in the counties of Spencer and Dubois,	169
An act to provide for a uniform mode of doing, in Clay county, repealed,	298
To revive an act for the uniform doing of, in the several townships and counties therein named,	388
Act regulating mode of doing, in county of Elkhart, amended,	168

## TOWN:

In relation to Carrollton, in Carroll county,	459
---	-----

## VENUE:

To change in the case of Willis M. Miller,	30
--	----

## VACATE:

Certain streets and alleys in Marion county,	192
Part of the Indianapolis and Centreville state road,	275
Certain lots, alleys, and streets in the town of Lawrenceburgh, in Decatur county,	336
Certain alleys in the town of Bloomington 2d section of repealed,	400
Certain streets and alleys in Raysville, Henry county,	408
A part of a street in the town of Bloomington,	573

## VOTING:

To alter the places of, in Daviess county,	309
--	-----

## WATER:

An act relative to high, in Jackson county,	341
---	-----

## WATER—Continued.

To authorize Matthias Paterson to convey into Lafay-  
ette, - 396

## WITNESSES :

Provision for, in the case of canal scrip before the ju-  
diciary committee, - 499

## ERRATA TO INDEX OF LOCAL LAWS.

On page 641, under the title Bridge, for "James Nowell" read  
"James Norvill."

On page 644, under the title Cranberries, for the figures "580"  
read "58."

On page 645, under the title Draining, for the figures "482" read  
"483."

On page 648, under the title Incorporation, for the figures "179"  
and "179" read "172" and "172."

Under title of Commissioners, an act should have been inserted :  
To authorize the, of Vigo county to procure a seal for the probate  
court, will be found on page 312.